IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 19287 of 2003
Date of decision: 18.9.2007

Chet Ram ...Petitioner

Versus

Financial Commissioner, Haryana and others ...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL
HON'BLE MR. JUSTICE R.S. MADAN

Present: Mr. BS Rana, Advocate,
for the petitioner.

Mr. S.S. Kharab, AAG, Haryana, for
respondents 1 to 4.

Mr. Rameshwar Malik, Advocate, for
respondent 5.

K.S.GAREWAL, J.

Chet Ram has filed this petition in partition proceedings to challenge certain orders passed by the revenue courts.

The petitioner had filed an application for partition of the land measuring 116 kanals 14 marlas. The petitioner had 1/3rd share in the undivided holdings. The mode of partition was prepared on May 6, 1998 wherein it was provided that there would be two khewats, one of the petitioner and the other of Hari Ram, the land would be partitioned by protecting possession and every efforts would be made to give the land to every co-sharer in both the parcels but divided in the minimum number of

parts. The mode of partition was not accepted by Hari Ram who filed an appeal before the Collector. The petitioner appeared before the Collector and pleaded that an oral partition had taken place between the co-sharers. Hari Ram had got the earth removed from the land in his possession and the partition should be made keeping this fact in view. Nevertheless, the Collector accepted Hari Ram's appeal and remanded the case back on February 3, 2000.

Thereafter, a fresh naksha kha was called for against which the petitioner filed objections because some of the lands which he was to get in exchange had been dug up by Hari Ram. The petitioner filed an appeal against this mode of partition. It was decided by the Collector on April 30, 2001 holding that the grounds raised by the petitioner were without merit. The appeal was dismissed and the parties were directed to appear for further proceedings before the lower court. The petitioner went up in revision before the Commissioner who also dismissed the petition on January 2, 2003. The petitioner filed a petition before the Financial Commissioner which too was dismissed in limine on November 4, 2003. The petitioner thereafter proceeded to file this petition.

The main ground argued by the learned counsel for the petitioner is that the land which has fallen in the petitioner's lot is low lying since earth was removed from this land by Hari Ram-respondent. The land is unfit for cultivation as water collects in the pits.

The petition was contested by Hari Ram who filed written statement in which he pleaded as a preliminary objection that it was the petitioner himself who had first leased land to M/s Ram Karan Bhatta Company for removing the earth. The answering-respondent had given

only half of killa on lease to M/s Bhatta Company for removing the earth only upto 2 feet. The lands given to the answering-respondent as well as to the petitioner are the land where

their respective tubewells had already been dug. In fact, the petitioner had become greedy and wants the best of the world at the cost of the other co-sharers. Some marginal adjustment had taken place on the principle of give and take.

We have gone through the orders of the revenue authorities culminating into the order of the Financial Commissioner and find that they do not contain any illegal infirmity or jurisdictional error. The petitioner cannot complain that he has got inferior land when he himself was responsible for making some of the land inferior to the others by removing the earth from it.

Therefore, having regard to the pleadings of the parties and the principles of partition, we find no ground to interfere. Dismissed.

(K.S. GAREWAL)
JUDGE

18.9.2007 **(R.S. MADAN)**
prem **JUDGE**